



NATIONAL SECURITY AGENCY
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 107824
13 September 2019

MUCKROCK NEWS
411A HIGHLAND AVE
DEPT MR 79452
SOMERVILLE MA 02144

Ms. Best:

This responds to your Freedom of Information Act (FOIA) request of 26 August 2019, for "documents mentioning or describing any use of "Still Interested" letters (i.e. letters inquiring if the requester is still interested in the records requested) in the processing and/or closure of FOIA requests, including but not limited to: * The original proposal for their use * Materials authorizing the use of any of the letters * Controlling policies or procedures * Any reports or statistics tracking their use, responses received and/or impact on any FOIA backlog * Communications with OGIS regarding "Still Interested" letters * Communications between the FOIA offices and general counsel's/legal services office discussing or mentioning "still interested" letters * Materials describing or discussing the number of days given to requesters to respond * Material describing the agency's policy on reopening requests when a requester responds after the period of time specified in the letter." Your letter has been assigned Case Number 107824. There are no assessible fees for this request.

One document responsive to your request was located and is attached. However, certain information has been deleted as explained below. This Agency is authorized by various statutes to protect certain information concerning its activities. We have determined that such information exists in this document. Accordingly, those portions are exempt from disclosure pursuant to the third exemption of the FOIA, which provides for the withholding of information specifically protected from disclosure by statute. The specific statute applicable in this case is Section 6, Public Law 86-36 (50 U.S. Code 3605).

Additionally, personal information regarding individuals has been deleted from the enclosures in accordance with the sixth exemption of the FOIA, 5 U.S.C. 552 (b)(6). This exemption protects from disclosure information that would constitute a clearly unwarranted invasion of personal privacy. In balancing the public interest for the information you request against the privacy interests involved, we have determined that the privacy interests sufficiently satisfy the requirements for the application of the (b)(6) exemption.

The Department of Justice's Office of Information Policy adminsters the FOIA program across the federal government. Their guidance regarding "Still Intersted" letters can be found at www.justice.gov/OIP/OIP-FOIA (search on "Still Interested").

You may appeal this decision. If you decide to appeal, you should do so in the manner outlined below. NSA will endeavor to respond within 20 working days of receiving any appeal, absent any unusual circumstances.

- The appeal must be sent via U.S. postal mail, fax, or electronic delivery (e-mail) and addressed to:

NSA FOIA/PA Appeal Authority (P132)
National Security Agency
9800 Savage Road STE 6932
Fort George G. Meade, MD 20755-6932

The facsimile number is 443-479-3612.

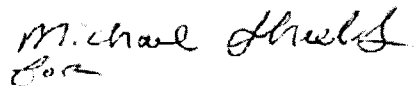
The appropriate email address to submit an appeal is FOIARSC@nsa.gov.

- It must be postmarked or delivered electronically no later than 90 calendar days from the date of this letter. Decisions appealed after 90 days will not be addressed.
- Please include the case number provided above.
- Please describe with sufficient detail why you believe the denial of requested information was unwarranted.

You may also contact our FOIA Public Liaison at foialo@nsa.gov for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Rd. - OGIS
College Park, MD 20740
ogis@nara.gov
877-684-6448
(Fax) 202-741-5769

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Shields".

JOHN R. CHAPMAN
Chief FOIA/PA Office
NSA Initial Denial Authority

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Verifying Continued Interest

April 2011

Change Number: 02
Date: June 2016

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(U) This SOP explains the steps for verifying the continued interest of FOIA/PA requesters whose cases have been on a backlog queue for a long period of time.

1. (U) If a FOIA/PA direct request has been inactive on a backlog queue for more than 1 year (i.e., no communication to or from requester), we need to verify the requester's continued interest in receiving the information prior to processing the request. (If the request was worked at the initial level for 6 months, then put on a queue and pulled 9 months later, verification would not be required.) There are some requesters for whom no verification is required, because they are always interested in receiving their material, no matter the age of the request [redacted]

[redacted] the National Security Archive, and the Federation of American Scientists, to name a few). Their cases may be processed once pulled from the queue.

(b) (6)

2. (U) If the initial letter indicated that the information was needed for a specific event that has already passed (e.g., a publication date that has passed, a ceremony that has passed, a court date, etc.), verification should be obtained from all requesters (including those listed above) even if it has not yet been a year. In addition, if the requester was a student or a media requester (or other similar situation) where it is likely that the information requested might no longer be needed, verification should be obtained if it's been 6 months since the last communication with the requester.

3. (U) If the requester is an NSA employee, the requester should be called to verify his/her interest if the request is older than one year. The call should be documented in the comments section of the case (date of the call, the requester's interest, and the reviewer who made the call). This should also be added to the final M/R.

(b) (3) - P.L. 86-36

4. (U) If the requester is not an NSA employee, and is a U.S. person, the reviewer should call or email the person instead of sending a letter if he/she is comfortable doing that. A lot of the requesters prefer a phone call or an email instead of the letter. Although if you have worked in operations or [redacted] you probably will not want to use email to contact requesters. You can also have the POC for the FOIA Requester Service Center send an email from the generic FOIA email address. Keep in mind that some requesters may have a history of being hard to deal with on the phone. If that is the case, a phone call is not recommended.

5. (U) For non-U.S. requesters and those requesters for whom there is no phone number available, or for those whom we choose not to call, a letter should be sent requesting that they verify their interest in the material. The template to be used is FOIA_verify_ltr.dot. A copy of the original request will be included with the letter. You should indicate in the verify letter if the request was narrowed and/or clarified by the requester, so that it is clear what we are about to process. For example, "On (date) you narrowed your request to be for (X subject). Before processing your request, we want to establish your continued interest in receiving a copy of (X subject)."

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6. (U) You should also indicate in the verify letter if we have interpreted his request a particular way, so that it is clear what we are about to process. For example, we may get a request for the NSA investigation of the attempted assassination of a foreign leader. Even if we explained our interpretation of the request in the initial response, we would do so again in the verify letter. For example, "You requested records pertaining to NSA's investigation of the assassination attempt against (foreign leader X). NSA coordinates, directs, and performs highly specialized activities to protect U.S. information systems and produce foreign intelligence information. NSA does not conduct external investigations. We have, therefore, broadly interpreted your request as one for records related to the assassination attempt against (foreign leader X). Before processing your request, we want to establish your continued interest in receiving records related to the assassination attempt."

7. (U) Requesters can verify their interest telephonically (U.S. persons only), by facsimile (U.S. persons only), by U.S. mail, or over the Internet. All options are spelled out in the letter. Do not provide telephone or facsimile information in the verify letter to requesters outside the continental U.S.

8. (U) For PA cases that are over one year old in which an attorney has made the request on behalf of a client, we must go back to the client and ask for a current, signed authorization that authorizes NSA to release the client's records to the attorney. If the client is a current NSA employee or we have a contact phone number, you may call or email the individual to verify continued interest and request that they forward the new authorization. If you need to send a written request, the request should be sent "Restricted Delivery." If you are unable to locate the individual, send a "Restricted Delivery" letter to the attorney to verify continued interest and request that they obtain new authorization. An authorization form (template called PA_contintatt.dot) should be included with the letter.

9. (U) For a case that has been partially processed, we should explain to the requester what is left to process so that he knows what he's verifying his interest in. For example, "We provided you with fifteen documents related to the first part of your request on (date). All that remains to process in your request are historical documents related to the second part of your request. We expect that (one or some) of the documents will require coordination with other agencies. We want to establish your continued interest in receiving the material before we continue processing your request."

10. (U) In those cases where we've already referred documents to other agencies, and the requester either does not respond to the verify or advises us that they no longer need the information, the reviewer should make a courtesy call to the agencies to which we referred records and advise them that the requester no longer requires the information. If the other agency has not yet responded, they may be able to close their case. Note the details of the call in the case comments.

11. (U) If a case has only one or two documents for which it can easily be determined that a classification review is going to be needed, a verify letter (or call or

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email) should be sent. There is no reason to spend time reviewing documents for release if the requester no longer requires the information, even if it is easily processed product reports. We don't want to spend time reviewing/denying something if the requester doesn't want it.

12. (U) If, however, a case has only one or two documents for which it can easily be determined that a classification review is not going to be needed, verification of interest is not required. If a cursory review reveals that the information is unclassified and will be released, it is more reasonable just to prepare a granted in full letter and send the releasable document(s) out. That way, there is only one piece of correspondence being sent, and we can close the case immediately. (If we were to do a verify letter and they didn't respond, we would have to wait over 30/45 days before closing the case. If the requester did express an interest, we would have to generate a second letter.)

13. (U) If the releasable documents are over the 100 free pages and meet the \$25 threshold for charging, the reviewer should follow the procedures for completing the case and requesting payment prior to responding. In certain circumstances, such as if the case has taken a long time to be worked or if the requester is a frequent requester, the reviewer may send the documents to the requester and ask for payment in the letter. These circumstances should be checked with the Chief [] before handling the documents in this manner. If the requester does not pay, we have processed his request, and can put him on the non-payer list. No future requests by that requester (including any others currently being worked or in the queue) would be processed until the bill is paid. The reviewer should pull the non-payer's other cases and send the requester a letter advising him because he has not paid outstanding fees, his other cases are going to be closed for non-payment.

14. (U) While waiting for verification on a case, the case should be suspended in CTS in the Suspense queue, with a note in the comments that it is suspended pending verification.

15. (U) If a requester calls in to verify his/her interest in continued processing, the person taking the call should note the date and time of the call in the Case Comments and indicate what the requester said. An email should be sent to the case officer advising him/her of the contact with the requester so that they may either close the case or continue processing.

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16. (U) If the requester verifies his/her interest by mail, the person in [] receiving the mail will send it over to be scanned and will also call or email the reviewer to let them know a response has been received. If it comes in by facsimile, or over the Internet, the [] will advise the reviewer that it's been received. When the new correspondence is scanned into the case, it should also cause the case to move back to the case officer's Case File.

17. (U) Once a requester verifies his/her interest in receiving the material, the case should be the next one processed by the reviewer so that it doesn't sit inactive for

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several months again. Please notify the approval chain when it is sent forward that it is in response to a verified interest, so that it may be properly noted on the approval list (with a V).

Content Owner: ~~(U//FOUO)~~



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